

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

JAMES J. TISDALE,
Plaintiff

v.

TIM BETTI, et al.,
Defendants

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No. 1:21-cv-1849

(Judge Rambo)

ORDER

AND NOW, on this 19th day of August 2022, upon consideration of Defendants’ motions to dismiss Plaintiff’s complaint and/or for summary judgment (Doc. Nos. 16, 26), and in accordance with the accompanying Memorandum, **IT IS ORDERED THAT:**

1. Defendant Tim Betti’s motion (Doc. No. 16) is **GRANTED**. Defendant Tim Betti is **DISMISSED** from this action;
2. Defendants WellPath, LLC, Dr. Haseebuddin Ahmed, Dr. Nick Demian, and Satish Mallik’s (“Medical Defendants”) motion (Doc. No. 26) is **GRANTED** in part and **DENIED** in part:
 - a. Their motion is **DENIED** as to the argument that Plaintiff failed to exhaust his claims concerning inadequate medical care related to his issues with balance and walking;
 - b. Their motion is **GRANTED** as to the argument that Plaintiff failed to exhaust his claims concerning (a) dental and mental health treatment and (b) the handicap shower;
 - c. Their motion is **GRANTED** as to Plaintiff’s claim under Title II of the Americans with Disabilities Act (“ADA”). Plaintiff’s ADA claim against the Medical Defendants is **DISMISSED WITH PREJUDICE** from this action;

3. Plaintiff's Eighth Amendment claim, which was construed as a Fourteenth Amendment claim by the Court, is **DISMISSED WITHOUT PREJUDICE** for failure to state a claim upon which relief can be granted;
4. Plaintiff is **GRANTED** leave to file an amended complaint against the Medical Defendants with respect to his Fourteenth Amendment claim, brought under 42 U.S.C. § 1983, concerning inadequate medical care related to his issues with balance and walking;
5. Plaintiff, if he elects to do so, shall file his amended complaint within **thirty (30) days** of the date of this Order;
6. The Clerk of Court is directed to mail Plaintiff a civil rights complaint form. Plaintiff shall title that complaint form "Amended Complaint" and shall include the docket number for this case, 1:21-cv-1849; and
7. In the event that Plaintiff fails to file an amended complaint within the thirty (30) days, then this action may be subject to dismissal for failure to prosecute pursuant to Rule 41(b) of the Federal Rules of Civil Procedure.

s/Sylvia H. Rambo
SYLVIA H. RAMBO
United States District Judge